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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
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10/816,217

04/01/2004

Nicholas A. J. Millington

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09/28/2009

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EXAMINER

NICKERSON, JEFFREY L

ART UNIT

PAPER NUMBER

2442

MAIL DATE

DELIVERY MODE

09/28/2009

PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

<p align="center">Advisory Action Before the Filing of an Appeal Brief</p>	Application No. 10/816,217	Applicant(s) MILLINGTON, NICHOLAS A. J.	
	Examiner JEFFREY NICKERSON	Art Unit 2442	

--The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

THE REPLY FILED 11 September 2009 FAILS TO PLACE THIS APPLICATION IN CONDITION FOR ALLOWANCE.

1. ☒ The reply was filed after a final rejection, but prior to or on the same day as filing a Notice of Appeal. To avoid abandonment of this application, applicant must timely file one of the following replies: (1) an amendment, affidavit, or other evidence, which places the application in condition for allowance; (2) a Notice of Appeal (with appeal fee) in compliance with 37 CFR 41.31; or (3) a Request for Continued Examination (RCE) in compliance with 37 CFR 1.114. The reply must be filed within one of the following time periods:

- a) ☐ The period for reply expires _____ months from the mailing date of the final rejection.
 b) ☒ The period for reply expires on: (1) the mailing date of this Advisory Action, or (2) the date set forth in the final rejection, whichever is later. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of the final rejection.

Examiner Note: If box 1 is checked, check either box (a) or (b). ONLY CHECK BOX (b) WHEN THE FIRST REPLY WAS FILED WITHIN TWO MONTHS OF THE FINAL REJECTION. See MPEP 706.07(f).

Extensions of time may be obtained under 37 CFR 1.136(a). The date on which the petition under 37 CFR 1.136(a) and the appropriate extension fee have been filed is the date for purposes of determining the period of extension and the corresponding amount of the fee. The appropriate extension fee under 37 CFR 1.17(a) is calculated from: (1) the expiration date of the shortened statutory period for reply originally set in the final Office action; or (2) as set forth in (b) above, if checked. Any reply received by the Office later than three months after the mailing date of the final rejection, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

NOTICE OF APPEAL

2. ☐ The Notice of Appeal was filed on _____. A brief in compliance with 37 CFR 41.37 must be filed within two months of the date of filing the Notice of Appeal (37 CFR 41.37(a)), or any extension thereof (37 CFR 41.37(e)), to avoid dismissal of the appeal. Since a Notice of Appeal has been filed, any reply must be filed within the time period set forth in 37 CFR 41.37(a).

AMENDMENTS

3. ☐ The proposed amendment(s) filed after a final rejection, but prior to the date of filing a brief, will not be entered because
 (a) ☐ They raise new issues that would require further consideration and/or search (see NOTE below);
 (b) ☐ They raise the issue of new matter (see NOTE below);
 (c) ☐ They are not deemed to place the application in better form for appeal by materially reducing or simplifying the issues for appeal; and/or
 (d) ☐ They present additional claims without canceling a corresponding number of finally rejected claims.

NOTE: _____. (See 37 CFR 1.116 and 41.33(a)).

4. ☐ The amendments are not in compliance with 37 CFR 1.121. See attached Notice of Non-Compliant Amendment (PTOL-324).
 5. ☐ Applicant's reply has overcome the following rejection(s): _____.
 6. ☐ Newly proposed or amended claim(s) _____ would be allowable if submitted in a separate, timely filed amendment canceling the non-allowable claim(s).
 7. ☒ For purposes of appeal, the proposed amendment(s): a) ☐ will not be entered, or b) ☒ will be entered and an explanation of how the new or amended claims would be rejected is provided below or appended.
 The status of the claim(s) is (or will be) as follows:
 Claim(s) allowed: _____.
 Claim(s) objected to: _____.
 Claim(s) rejected: 577-600.
 Claim(s) withdrawn from consideration: _____.

AFFIDAVIT OR OTHER EVIDENCE

8. ☐ The affidavit or other evidence filed after a final action, but before or on the date of filing a Notice of Appeal will not be entered because applicant failed to provide a showing of good and sufficient reasons why the affidavit or other evidence is necessary and was not earlier presented. See 37 CFR 1.116(e).
 9. ☐ The affidavit or other evidence filed after the date of filing a Notice of Appeal, but prior to the date of filing a brief, will not be entered because the affidavit or other evidence failed to overcome all rejections under appeal and/or appellant fails to provide a showing a good and sufficient reasons why it is necessary and was not earlier presented. See 37 CFR 41.33(d)(1).
 10. ☐ The affidavit or other evidence is entered. An explanation of the status of the claims after entry is below or attached.

REQUEST FOR RECONSIDERATION/OTHER

11. ☒ The request for reconsideration has been considered but does NOT place the application in condition for allowance because:
See Continuation Sheet.
 12. ☐ Note the attached Information *Disclosure Statement*(s). (PTO/SB/08) Paper No(s). _____.
 13. ☐ Other: _____.

/Andrew Caldwell/
 Supervisory Patent Examiner, Art Unit 2442

Continuation of 11. does NOT place the application in condition for allowance because:

Re Argument #1a:

Applicant argues the combined teachings fail to render obvious the following "the source device configured to transmit a media stream, the media stream comprising source-clock information related to an independent clock associated with the source device". During such argument, applicant attacks solely the Benslimane reference.

These arguments are unpersuasive, as applicant ignores all teachings of Mills as utilized in the final rejection. Benslimane teaches for a source device configured to transmit a media stream (Benslimane: abstract), wherein such media streams contain timing information (Benslimane: pg 457, LHS), and specifically where timing information is a time differential (Benslimane: section 3.1.1). Thus Benslimane provides for a source device configured to transmit a media stream, the media stream comprising timing information, specifically a time differential. Mills was cited for teaching timing information comprising source-clock information related to an independent clock associated with the source device (Mills: section 2, pg 3, LHS, last paragraph). Thus the combined teachings provide for the above-argued limitation.

Re Argument #1b:

Applicant argues that the combined teachings fail to render obvious the media stream as claimed.

These arguments are unpersuasive. As indicated above, the combined teachings provide for media streams containing timing information. A reference supporting sending timing information without a media stream does not imply it does not support sending timing information within a media stream.

Re Argument #2:

Applicant asserts the combined teachings fail to render obvious the following "outputting the media stream via two or more playback devices in synchrony based on the time differential, the two or more playback....". Applicant attacks solely the Benslimane reference.

These arguments are unpersuasive. As indicated in the final rejection, both mills and benslimane are cited for the rejection of this claim. Benslimane was cited for outputting a a stream via two playback devices in synchrony based on a time differential... (Benslimane: section 3.1.1-3.1.2). Mills was cited for teaching the timing differential being that of the claimed, as indicated above, and cited in the final rejection (Mills: pg 3, LHS; section 2.1, pg 3, RHS).

Applicants arguments are ultimately unpersuasive and, therefore, the rejection of these claims are hereby maintained as indicated in the Final Rejection.